

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

#8
Election
1/13/03

In re the application of: Stuart B. Levy *et al.*

Group Art Unit: 1648

Serial No.: 09/801,563

Examiner: Zachariah Lucas

Filed: March 8, 2001

For: "NIMR Compositions and Their Methods of Use"

Attorney Docket No.: PKZ-043

Commissioner for Patents
Washington, D.C. 20231

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December 18, 2002
Date of Signature and of Mail Deposit

By:

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RESPONSE TO RESTRICTION REQUIREMENT

Dear Sir:

This is in response to the restriction requirement set forth in the Office Action dated June 18, 2002. A request for the appropriate extension of time is being filed herewith. The Examiner has required restriction to one of the following groups under 35 U.S.C. §121:

- Group I: Claims 1-10 and 17-18, drawn to methods of identifying NIMR activity modulators by determining the ability of a test compound to modulate NIMR polypeptide activity, classified in class 436, subclass 501.
- Group II: Claims 11-16, drawn to methods of identifying NIMR expression modulators by determining the ability of a test compound to modulate expression of an NIMR polypeptide, classified in class 436, subclass 501.
- Group III: Claims 19 and 20, drawn to methods of decreasing the virulence of a microbe, or of reducing marA mediated transcription of an NIMR gene,

comprising exposing the microbe to an environmental challenge and a modulator of NIMR activity, classified in class 424, subclass 139.1.

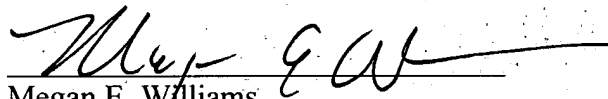
- Group IV: Claims 21-29, drawn to methods of identifying NIMR activity modulators by determining the ability of a test compound to bind to an isolated NIMR polynucleotide, classified in class 436, subclass 501.
- Group V: Claim 30, drawn to a vaccine comprising at least one NIMR nucleic acid molecule, classified in class 536, subclass 23.1.
- Group VI: Claim 30, drawn to a vaccine comprising at least one NIMR polypeptide and an acceptable carrier, classified in class 514, subclass 2.
- Group VII: Claims 31 and 32, drawn to compositions comprising a compound that modulates NIMR activity, classified in class 439, subclass 139.1.
- Group VIII: Claims 33 and 36-38; drawn to a method of reducing microbial virulence in a subject by administering at least one NIMR modulator to the subject, classified in class 424, subclass 139.1.
- Group IX: Claims 34 and 36-38 drawn to a method of treating a microbial infection by administering at least one NIMR modulator to the subject, classified in class 424, subclass 139.1.
- Group X: Claims 35-38 drawn to a method of reducing the infectivity of a microbe by contacting the microbe with at least one NIMR modulator, classified in class 424, subclass 139.1.

Applicants hereby elect the Group III invention (claims 19 and 20) for prosecution in this application, *without traverse*.

Applicants reserve the right to traverse the restriction between the non-elected groups in this or a separate application.

Respectfully submitted,

LAHIVE & COCKFIELD, LLP

A handwritten signature in dark ink, appearing to read 'Megan E. Williams', is written over a horizontal line.

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Dated: **December 18, 2002**